

### REMARKS

Claims 1 – 20 remain in this application. Claims 1 and 4 have been amended. Reconsideration of this application in view of the amendments noted is respectfully requested.

Claims 1 and 4 have been amended to delete the recitations of a “glycidyl ether (B2)” and “glycidyl groups or vinyl groups.”

In the Advisory Action, the provisional obviousness-type double patenting rejections of claims 1, 2, 9 – 11, and 15 – 20 over copending application no. 11/629,264 has been maintained.

With respect to the double patenting rejections, since the rejections are provisional, no further action is required until the double patenting rejection is the only remaining rejection in the present application and/or the rejection is no longer provisional. Applicant reserves the right to address the double patenting rejections and/or file a terminal disclaimer at a later date if necessary.

Claims 1 – 7 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (U.S. Patent No. 5,952,433, hereinafter “Wang ‘433”) in view of Wang et al. (U.S. Patent Application Pub. No. 2002/0128382, hereinafter “Wang ‘382”). Applicant respectfully traverses this rejection.

As an initial matter, while the claim rejections refer to Wang ‘433 (U.S. Patent No. 5,952,433), the PTO-892 cited Wang et al. (U.S. Patent No. 6,075,118, hereinafter “Wang ‘118”). In other words, it does not appear that Wang ‘433 has been cited in a PTO-892. If this is the case, applicant respectfully requests that Wang ‘433 is cited in a PTO-892.

With respect to independent claims 1 and 4, Wang ‘433 does not disclose or fairly suggest a biodegradable polyester resin composition including an aliphatic polyester cross-linked with a (meth)acrylic ester having two or more (meth)acryl groups, as claims 1 and 4 require.

Wang ‘382 does not disclose or fairly suggest a composition including “a (meth)acrylic ester having two or more (meth)acryl groups in the molecule thereof,” as claims 1 and 4 require. Thus, including a predetermined amount of “a (meth)acrylic ester

having two or more (meth)acryl groups in the molecule thereof” in a biodegradable polyester resin composition and cross-linking to obtain a desired gelation index as in the present invention is not obvious in view of Wang ‘382.

Further, the Advisory Action states that the examiner has found Wang ‘382 does not teach away from the present invention. However, applicant respectfully disagrees with this position. Wang ‘382 discloses that the amount of free radical initiator in the total mixture compositions is kept in the range of from about 0.1 to about 1.5 weight percent. Wang ‘382 specifically discloses that “[i]f the amount of free radical initiator is too high, it will create undesirable cross-linking of the polymer composition. Cross-linked polymers are undesirable in the present invention because they cannot be processed into films, fibers or other useful products.” (See paragraph [0074], emphasis added). Therefore, Wang ‘382 clearly discloses that its biodegradable polymer composition is not cross-linked, and cross-linking is specifically avoided.

In this regard, Wang ‘382 discloses an ethylenically unsaturated monomer having a polar functional group (for example, see claim 8, which is referred to in the Advisory Action). The invention of Wang ‘382 consists of grafting this monomer onto a biodegradable polymer through unsaturated double bonds (C=C) to have a polar functional group hanging from the biodegradable polymer main chain as a side chain, so that the polar functional group makes the biodegradable polymer hydrophilic and modifies the biodegradable polymer hydrolytically.

Consequently, it is required that the polar functional group of the ethylenically unsaturated monomer does not react with the other biodegradable polymer chains (e.g. cross-linking), and remains hanging from the biodegradable polymer main chain. For example, paragraphs [0100] and [0117] of Wang ‘382 disclose structural formulas in which HEMA and PEGMA hang from the biodegradable polymer main chain.

Thus, Wang ‘382 specifically discloses grafting monomers onto biodegradable polymers as side chains without cross-linking the polymer compositions.

In contrast, the present invention includes a cross-linked structure formed by actively bonding at least two biodegradable polymer chains through two or more (meth)acryl groups

(i.e., at least two C=C bonds) by using a (meth)acrylic ester having two or more (meth)acryl groups in the molecule thereof. Thus, the present composition has a gelation index of not lower than 0.1% and not higher than 0.5%.

Hence, the biodegradable polyester resin composition of the present invention is different than that disclosed in Wang '382. And no combination of Wang '382 with Wang '433 results in the present invention. The present composition includes an aliphatic polyester cross-linked with a (meth)acrylic ester having two or more (meth)acryl groups, whereas Wang '382 specifically teaches away from cross-linking.

For these reasons, independent claims 1 and 4 are patentable over Wang '433 and Wang '382. Claims 2 and 3, depending from claim 1, and claims 5 – 7 and 12, depending from claim 4, are also patentable over Wang '433 and Wang '382. Accordingly, applicant respectfully requests that the Section 103(a) rejection of claims 1 – 7 and 12 as being unpatentable over Wang '433 and Wang '382 be withdrawn.

Claims 8 – 11 and 13 – 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '433 in view of Wang '382 and Deckwer et al. (U.S. Patent No. 6,150,490, hereinafter "Deckwer"). Applicant respectfully traverses this rejection.

Applicant incorporates by reference the arguments made above with respect to the patentability of claim 1. Based upon those arguments, claim 1 is patentable over Wang '433 and Wang '382. Claims 8 – 11 and 13 – 20, depending directly or indirectly from claim 1, are also patentable over Wang '433 and Wang '382, and any combination of Wang '433 and Wang '382 with Deckwer.

Accordingly, applicant respectfully requests that the Section 103(a) rejection of claims 8 – 11 and 13 – 20 as being unpatentable over Wang '433 in view of Wang '382 and Deckwer be withdrawn.

A Request for Continued Examination (RCE) and a PTO-2038 authorizing payment in the amount of \$810.00 to cover the fee under 37 CFR 1.17(e) are included with this response.

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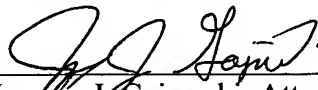
A Petition For A Two-Month Extension Of Time and a PTO-2038 authorizing payment in the amount of \$490.00 to cover the fee under 37 CFR 1.17(a)(2) are included with this response.

This amendment and request for reconsideration is felt to be fully responsive to the comments and suggestions of the examiner and to place this application in condition for allowance. Favorable action is requested.

Respectfully submitted,

Fumio Matsuoka et al.

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A handwritten signature in black ink, appearing to read "Jeremy I. Gajewski", is written over a horizontal line.

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